

REMARKS

Claims

Upon entry of this Amendment, claims 6-11, 14, 15 and 18 will be pending in the application with claims 6, 9 and 15 being independent. Claims 1-5, 12, 13, 16 and 17 have been canceled. Claims 6, 9, 14, 15 and 18 are currently amended. No claims have been added. Reconsideration is respectfully requested.

Allowable Subject Matter

Applicants appreciate the Examiner's indication that dependent claim 15 would be allowable if rewritten into independent form including the base claim and any intervening claims. Dependent claim 15 has been rewritten into independent form to include all of the limitations of claim 13. Dependent claims 14 and 18 have been amended to depend from claim 15.

Applicants also appreciate the Examiner's indication that claims 6-11 are allowable if the rejection under 35 U.S.C. 101 is overcome. For the reasons indicated below, Applicants believe the rejection has been overcome and these claims are also in condition for allowance. Applicants wish to note that they have canceled the remaining claims to move this application into condition for allowance, but these claims are canceled without prejudice. Applicants respectfully reserve the right to continue prosecution of the remaining rejected claims in a continuing application. Applicants believe the subject application is now in condition for allowance.

Claim Rejections - 35 U.S.C. §101

Claims 1 and 4-11 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Claims 1, 4 and 5 have been canceled. Claims 6 and 9 have been amended to recite an electronic device for carrying out the step of comparing. This amendment is made without prejudice and Applicants reserve the right to argue

that the previously presented claims satisfy 35 U.S.C. §101 in a continuing application.

Applicants believe that claims 6 and 9 as previously presented satisfy 35 U.S.C. §101. Furthermore, Applicants note that the Supreme Court held that the machine or transformation test is not the sole test for determining patent eligibility under 35 U.S.C. §101. Nevertheless, to move this application to allowance, Applicants have amended claims 6 and 9 to recite that the step of comparing is implemented using an electronic device, which the USPTO has indicated as favoring eligibility under 35 U.S.C. §101 in its “Interim Guidance for Determining Subject Matter Eligibility for Process Claims in View of *Bilski v. Kappas*,” dated July 27, 2010.

Claim Rejections - 35 U.S.C. §102

Claims 1, 4, 5, 13, 14 and 18 stand rejected under 35 U.S.C. §102(b) as being anticipated by Seidman (U.S. Patent No. 6,416,479). These rejections are now moot in view of the amendments to the claims and the Applicants acceptance of the allowable subject matter.

Applicant: Janski et al.
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Applicants believe the application is now in condition for allowance, which allowance is respectfully solicited. Applicants believe that no additional fees are required except for the Petition for a Three-Month Extension of Time. However, the Commissioner is authorized to charge our Deposit Account No. 08-2789 in the name of Howard & Howard Attorneys, PLLC for any additional fees or credit the account for any overpayment, including any additional fees for extensions of time that may not have already been paid.

Respectfully submitted,

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Date

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